

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PAULETTE M. COLLEY,

Plaintiff,

-against-

1:06-CV-0749 (LEK/VEB)

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

DECISION AND ORDER

This matter comes before the Court following a Report-Recommendation filed on April 20, 2009, by the Honorable Victor E. Bianchini, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3(c) of the Northern District of New York. Report-Rec. (Dkt. No. 9).

Within ten days, excluding weekends and holidays, after a party has been served with a copy of a Magistrate Judge's Report-Recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations," FED. R. CIV. P. 72(b), in compliance with L.R. 72.1. No objections have been raised in the allotted time with respect to Judge Bianchini's Report-Recommendation. Furthermore, after examining the record, the Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice.

Accordingly, it is hereby

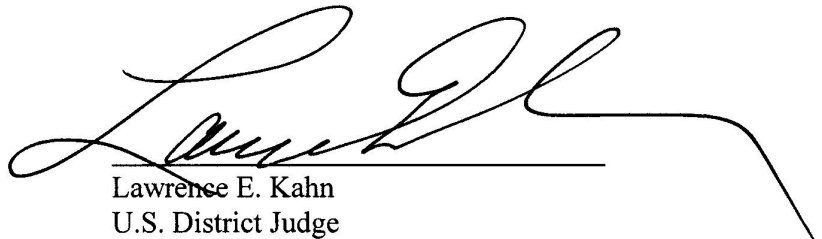
ORDERED, that the Report-Recommendation (Dkt. No. 9) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

ORDERED, that Defendant's Motion for judgment on the pleadings is **DENIED**; Plaintiff's cross-Motion for judgment on the pleadings is **GRANTED in part** and **DENIED in part**; that the decision of the Commissioner be **REVERSED** and that the case be **REMANDED** to the Commissioner for further administrative proceedings consistent with this Report and Recommendation; and it is further

ORDERED, that the Clerk serve a copy of this Order on all parties.

IT IS SO ORDERED.

DATED: May 12, 2009
Albany, New York



Lawrence E. Kahn
U.S. District Judge